

COUNCIL MINUTES
TIGARD CITY COUNCIL MEETING
June 8, 2004

The meeting was called to order at 6:30 p.m. by Mayor Dirksen.

Council Present: Mayor Dirksen, Councilors Moore, Sherwood, Wilson, Woodruff

- EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 6:30 p.m. to discuss labor negotiations, exempt public records, and pending litigation under ORS 192.660(2)(d)(f) and (h).

Executive Session recessed at 7:19 p.m.

Study Session convened at 7:19 p.m.

- STUDY SESSION

- > ADMINISTRATIVE ITEMS

- City Manager Monahan asked if the Council would like to have dinner with the Indonesian delegation on Tuesday, June 15, 2004 at 5 p.m. Several Councilors were interested in attending. Mr. Monahan said he would confirm time and place.
 - Mr. Monahan provided details on consent agenda item 3.3c – computer bids for the new library. An updated agenda item summary was distributed.
 - Mr. Monahan noted the Nicoli field dedication will take place in conjunction with the Balloon Festival on Sunday. The Council has been given invitations and parking passes in their mail packets. Former City Councilor Paul Hunt will be speaking at the dedication.
 - A LOC Handbook for Oregon City Councilors was distributed to the Councilors. It will also be given to candidates.
 - Mr. Monahan noted he will be providing ethics training for city board and committee members on Thursday, July 8. He invited the Council to attend. Several Councilors stated they had a conflict with this date and would not be in attendance.

Study session recessed at 7:24 p.m.

1. BUSINESS MEETING

- 1.1 Mayor Dirksen called the Council and Local Contract Review Board Meeting to order at 7:33 p.m.
- 1.2 Roll Call: Mayor Dirksen, Councilors Moore, Sherwood, Wilson and Woodruff were present
- 1.3 Pledge of Allegiance
- 1.4 Council Communications & Liaison Reports

Mayor Dirksen thanked Councilor Wilson for representing the city at the Westside Mayor's meeting.

1.5 Call to Council and Staff for Non-Agenda Items

City Manager Monahan noted there were no non-agenda items, but referred to a memo regarding an upcoming Downtown Task Force tour on June 11. Mr. Monahan asked the Councilors to let him know if they were interested in attending.

2. VISITOR'S AGENDA

- Nikki Pham, Tigard High School Student Envoy, told the Council about various activities and information related to the high school. Ms. Pham distributed a handout (Agenda Item No. 2, Exhibit 1) which is on file in the City Recorder's office.
- Chamber President Murphy updated the Council on Tigard Area Chamber of Commerce activities. Mr. Murphy stated his tenure as President on the Chamber of Commerce Board ends on June 15, but he or incoming President Devin Kidman would still be reporting to the Council.
- Henry Kane, 12077 SW Camden Ln., Beaverton, Oregon, mentioned his letter to the Council (Agenda Item No. 2, Exhibit 2) regarding the voting methodology proposed for the Bull Mountain annexation. Mr. Kane stated he will be submitting a comprehensive brief. Mr. Kane contended a double majority vote is constitutional, while a cumulative single majority vote is not. He continued by saying if the city proceeded with the cumulative single voting method, a U.S. District Court case would be filed by July 29 asking for a permanent injunction against the city.

- Richard Franzke, 14980 SW 133rd Ave., Tigard, Oregon, handed out a document (Agenda Item No. 2, Exhibit 3) containing information on the King City annexation study and Tigard's proposed voting method. Mr. Franzke stated King City was conducting an in-depth, professional study and preliminary information seems favorable.

Mr. Franzke asserted that employing a methodology involving a single counting of ballots will be challenged legally. He added this voting process is unfair, unconstitutional and not proper interpretation of statute. Mr. Franzke warned that failure to work amicably with King City to resolve the annexation issue would result in litigation.

- Lisa Hamilton-Treick, 13565 SW Beef Bend Rd., unincorporated Bull Mountain, expressed concern over the lack of accommodations made for the large audience that attended the December 2 Bull Mountain hearing. Ms. Hamilton-Treick stated there will likely be a sizeable crowd at the upcoming July 27 public hearing. She requested the city provide amplified sound and television monitors in the lobby and possibly outside, in the event Town Hall fills to capacity. She stated many elderly long-time Bull Mountain residents could not stand for long periods of time.

Ms. Hamilton-Treick asked for clarification on upcoming Council meetings in which items relating to Bull Mountain might be discussed.

Councilor Wilson pointed out the city's web site was not up to date. City Manager Monahan relayed the following possible dates for public comment and Council action on Bull Mountain annexation issues:

Item	Date or Possible Dates
Council discussion of Bull Mountain the white papers.	June 15 workshop
Public comment on the white papers. (Meeting may continue to June 23 & 24 depending upon the amount of public testimony.)	June 22 Possibly June 23 & 24
Council action on the white papers. Action date depends upon the amount of public testimony. *The Council may also choose to take action at a meeting subsequent to the dates listed.	June 22, 23, 24 or another date*

Discussion of King City proposal. Don't know when this information will be received from King City.	unknown
Public comment on the annexation plan. (Meeting may continue to July 28 & 29 depending upon the amount of public testimony.)	July 27 Possibly July 28 & 29
Council action on the annexation plan. Action date depends upon the amount of public testimony.	July 27, 28, 29 or Aug 3
Public comment on the ballot title. (Meeting may continue to Aug 11 & 12 depending upon the amount of public testimony.)	Aug 10 Possibly Aug 11 & 12
Council action on the ballot title. Action date depends upon the amount of public testimony.	Aug 10, 11, 12

Mr. Monahan advised that should the Council desire, the city can provide monitors to broadcast the meeting in-house. He explained Tualatin Valley Television controls the broadcast of Council meetings and has other time slots allocated to other jurisdictions. He confirmed the July 27 meeting falls on one of Tigard's standard time slots and would be broadcast live.

Ms. Hamilton-Treick asked if there was any discussion about how late these meetings may go. Mr. Monahan explained the length of Council meetings is left to the Council's discretion. Council groundrules state the Council is to have a discussion as to whether they wish to continue a meeting beyond 10 p.m.

Ms. Hamilton-Treick noted the July 27 meeting is the most important one and hoped it would not be cut unusually short.

A brief discussion regarding public testimony occurred.

- Diane Jelderks, 11890 SW 91st Ave., Tigard, Oregon, described her work experience with the Planning Commission and the city engineer's office. Ms. Jelderks stated there had been an error made in the process of adopting the

Transportation System Plan (TSP). She stated this error impacts the proposed \$50,000 feasibility study of Walnut Street/Ash Avenue connection listed in the Capital Improvement Program the Council will consider tonight.

Ms. Jelderks directed the Council's attention to Ordinance No. 91-03 which is related to Comprehensive Plan amendment 90-10, adopted March 12, 1991. She noted it appeared the ordinance was ever incorporated into the Comprehensive Plan map. Ms. Jelderks read the relevant part of the ordinance, "delete the Ash Avenue connection between Commercial Street and Highway 99W at Walnut Street. Reestablish the Ash Avenue connection between Burnham Street and Hill Street." She advised Ordinance No. 02-03, relating to the TSP, did not repeal Ordinance No. 91-03. As the connection is still depicted in the TSP, Ms. Jelderks stated Ordinance Nos. 91-03 and 02-03 are in direct conflict with one another.

Ms. Jelderks informed the Council Ordinance No. 91-03 resulted from the input of Neighborhood Planning Organizations, the Transportation Advisory Committee, local residents, the Ash Avenue neighborhood, downtown business owners and a developer and engineers who were developing a site on Main Street. Ms. Jelderks noted that although there was considerable public involvement in this process, the same could not be said for the subsequent adoption of the Transportation System Plan. She indicated no one who had spoken at the earlier hearing had been given any notice of the change that is currently reflected in the TSP. She stated making a change of this magnitude, without contacting those involved in the previous process, was not in line with the Council's communication philosophy.

Ms. Jelderks requested the City Council direct staff to initiate a Comprehensive Plan Amendment to remove the Walnut Street/Ash Ave connection from the TSP.

Mr. Monahan suggested the Council may wish to ask staff to bring the ordinances in question to the Downtown Task Force, since the connection in question is related to the downtown. He suggested the task force might review the ordinances and provide the Council with a recommendation.

Mr. Monahan proposed the Council still consider the Capital Improvement Program, where the \$50,000 feasibility study is located, with the understanding that no funds would be expended on this study until an analysis is completed. City Attorney Firestone agreed this approach was acceptable.

- Isador W. Morgavi, 15145 SW 119th Ave., Tigard, Oregon, who introduced himself as a charter member of the Friends of Bull Mountain. Mr. Morgavi described a 2002 telephone survey conducted by the City of Tigard and Washington County. In the survey, both Tigard and Bull Mountain residents were contacted. Mr. Morgavi cited the executive overview of the survey which said significant differences could be seen between Bull Mountain and Tigard residents. Mr. Morgavi explained, initially, 52 percent of Tigard residents and 30 percent of Bull Mountain residents supported annexation. Ten percent of Tigard residents and 44 percent of Bull Mountain residents opposed annexation. The survey concluded by noting support for annexation was divided at the border between the City of Tigard and the unincorporated area of Bull Mountain. When Tigard and Bull Mountain residents were combined, 49 percent were in support of annexation, however only 40 percent of those previously unaware of the possibility of annexation said they supported the idea. Support for annexation increased among both groups surveyed when it was indicated more money would be available for parks and open space development. Mr. Morgavi asserted that despite park system development charges being collected by the city from the Bull Mountain area, no park money has been spent in this location.

Mr. Morgavi added Tigard is disregarding the Tigard and Bull Mountain residents who were opposed (51 percent) to a majority single vote.

Mr. Morgavi noted with revenue limitations, the city has an increasingly difficult task in providing services for its constituents. He concluded by asking the Council not to lose sight of the fact that "you who govern derive your right from the informed consent of the governed."

- Keshmira McVey, 13525 SW Beef Bend Rd., unincorporated Bull Mountain, addressed the Council about the voting method related to the Bull Mountain annexation. Ms. McVey contended that although every Bull Mountain resident could be opposed to annexation, annexation could still go through regardless of their votes. Since the annexation will result in higher taxes, this is essentially taxation without representation for Bull Mountain residents. Ms. McVey stated it was unfair resolve Tigard's budget problems by annexing Bull Mountain. She noted King City had no debt. If Bull Mountain were annexed by King City, annexed residents would not be paying for existing debts for which they had never voted. Bull Mountain is being asked to subsidize Tigard's budget. She commented Bull Mountain is a low service, high revenue area.
- Grethchen Buehner, 13249 SW 136th Pl., Tigard, Oregon, stated one-third of Bull Mountain has already been incorporated into the City of Tigard. She noted

these residents may disagree with the attitudes of unincorporated Bull Mountain residents. Ms. Buehner stated she hoped the Council was open to hearing from citizens who reside in incorporated Bull Mountain.

- Holly Shumway, 14535 SW Woodhue, unincorporated Bull Mountain, stated she is the chairperson of Citizen Participation Organization (CPO) 4B, although she was addressing the Council as a citizen. Ms. Shumway spoke about the proposed Bull Mountain annexation.

Ms. Shumway cited a survey, involving Bull Mountain and Tigard residents, which indicated these groups wanted a fair and right annexation process. Survey respondents stated they supported a process which did not involve bullying or go against the grain of democracy. She added the CPO seeks to represent all viewpoints and the resounding message she has heard from this group is to, "let it be fair."

- Ron Ellis-Gaut, 10947 SW Chateau Ln., Tigard, Oregon, noted he was a Tigard resident. He expressed concern over the amount of resources the city was devoting to annexation and the organized resistance from Bull Mountain residents. He questioned what the city was trying to accomplish and what lengths the city was willing to go to in terms of cost and effort regarding this issue.

Mayor Dirksen recognized the Boy Scouts of Troop 871, who were attending the Council meeting in order to earn a merit badge.

- Mayor Dirksen responded to visitor's agenda comments regarding the Bull Mountain annexation single majority voting method. He stated the single majority vote is the democratic choice, because the entire body politic votes on an issue that affects the body politic. Mayor Dirksen contended a double majority vote disenfranchises Tigard voters, because the cumulative vote of 4,000 Bull Mountain voters is given equal weight to the 22,000 votes of Tigard voters. This reduces the impact of a Tigard voter to one-fifth that of a Bull Mountain voter.

3. **CONSENT AGENDA:** Motion by Councilor Sherwood, seconded by Councilor Wilson, to adopt the Consent Agenda as follows:

3.1 Approve Council Minutes for May 11, 18 and 25, 2004

- 3.2 Receive and File
 - a. Council Calendar
 - b. Tentative Agenda
- 3.3 Local Contract Review Board:
 - a. Award the Contract for Mowing and Wee d Cutting in the City's Right-of-way Areas to Chorak Mowing.
 - b. Award the Contract for the Construction of the Hall Boulevard Sidewalk to ACS, Inc.
 - c. Award Purchase of Desktop Computers for New Library to Viable Links.

The motion was approved by a unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

4. UPDATE ON THE 2004 TIGARD FESTIVAL OF BALLOONS

Event Organizer Nicoli provided a handout with highlights and information on the upcoming Tigard Festival of Balloons. The handout (Agenda Item No. 4, Exhibit 1) is on file in the City Recorder's office. Mr. Nicoli mentioned many non-profit organizations rely on the event to raise money. He reported there would be several Father's Day promotions on Sunday.

Mr. Nicoli relayed there would be an admission charge during certain hours. Funds generated from admission will be used to reduce the event's dependency on sponsorships, with a portion of the admission fees donated to the Good Neighbor Center and the Tigard Skate Park.

Councilor Wilson inquired about the event's sustainability. Mr. Nicoli responded that coordinating the event will be easier next year as he is documenting everything. He informed the Council he purchased rain insurance. He noted he hoped to build some equity to create a financially viable, self-sustaining event.

Several Councilors thanked Mr. Nicoli for his work on the event.

City Manger Monahan mentioned the dedication of the Nicoli Athletic Fields which would take place at Cook Park on Sunday, June 20 at 11 a.m.

5. PUBLIC HEARING – APPROVE THE CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEAR 2004-2005
 - a. Open Public Hearing
Mayor Dirksen opened the public hearing.
 - b. Summation by Engineering Staff
City Engineer Duenas gave a PowerPoint presentation highlighting the 2004-2005 Capital Improvement Program. The PowerPoint is on file in the City Recorder's office.
 - c. Public Testimony
 - Gretchen Buehner, 13249 SW 136th Pl., Tigard, Oregon, commended Mr. Duenas on the Capital Improvement Program. She has been impressed in her dealings with Mr. Duenas and reminded the Council the process provided plenty of opportunities for public input.
 - d. Staff Recommendation
Mr. Duenas recommended approving the fiscal year 2004-2005 Capital Improvement Program with project implementation beginning July 1. Based upon an earlier visitor's agenda item, Mr. Duenas suggested the Council may wish to hold off on the Walnut St. extension until an analysis is completed.
 - e. Council Discussion
In response to an inquiry from Councilor Wilson, Mr. Duenas discussed the traffic impacts and the timeline for city and county projects related to Walnut St.
 - f. Close Public Hearing
Mayor Dirksen closed the public hearing.
 - g. Council Consideration
Motion by Councilor Sherwood to approve the Capital Improvement Program project for 2004-2005 with the exception that funds earmarked for the Walnut St./Ash St. extension cannot be expended until a review is initiated by the Downtown Task Force, such a review is completed and

findings are sent on to the Council for consideration, whereby the Council will give direction.

The motion was seconded by Councilor Woodruff.

The motion was approved by unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

6. PUBLIC HEARING – CONSIDER A RESOLUTION CERTIFYING THAT THE CITY OF TIGARD PROVIDES SERVICES QUALIFYING FOR STATE SHARED REVENUES
 - a. Open Public Hearing
Mayor Dirksen opened the public hearing.
 - b. Summation by Finance Staff
Finance Director Prosser offered a brief summary of this item. He provided estimates for the cigarette, liquor and gas taxes. Mr. Prosser explained cigarette and liquor taxes are revenues to the general fund, while the gas tax is a revenue to the gas tax fund.
 - c. Public Testimony
There was no public testimony.
 - d. Staff Recommendation
 - e. Council Discussion
There was no Council discussion.
 - f. Close Public Hearing
Mayor Dirksen closed the public hearing.
 - g. Council Consideration
Motion by Councilor Wilson, seconded by Councilor Moore, to adopt Resolution No. 04 – 35

Resolution No. 04 – 35, A RESOLUTION CERTIFYING THAT THE CITY OF TIGARD PROVIDES SERVICES QUALIFYING FOR STATE SHARED REVENUES

The resolution was approved by unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

7. PUBLIC HEARING - CONSIDER AN ORDINANCE DECLARING THE CITY'S ELECTION TO RECEIVE STATE REVENUES

- a. Open Public Hearing
Mayor Dirksen opened the public hearing.
- b. Summation by Finance Staff
Finance Director Prosser offered a brief summary of this item. Mr. Prosser confirmed the amount of these funds was based on population.
- c. Public Testimony
There was no public testimony.
- d. Staff Recommendation
Mr. Prosser recommended approval of the ordinance.
- e. Council Discussion
There was no Council discussion.
- f. Close Public Hearing
Mayor Dirksen closed the public hearing.
- g. Council Consideration
Motion by Councilor Sherwood, seconded by Councilor Woodruff, to adopt Ordinance No. 04 - 0 5

Ordinance No. 04 – 05, AN ORDINANCE DECLARING THE CITY'S
ELECTION TO RECEIVE STATE REVENUES

The ordinance was approved by unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

8. PUBLIC HEARING - CONSIDER A RESOLUTION ADOPTING THE BUDGET,
MAKING APPROPRIATIONS, DECLARING THE VALOREM TAX LEVY AND
CLASSIFYING THE LEVY AS PROVIDED BY ORS 310.060(2) FOR FISCAL
YEAR 2004-2005

- a. Open Public Hearing
Mayor Dirksen opened the public hearing.
- b. Summation by Finance Staff
Finance Officer Prosser gave a PowerPoint presentation highlighting the 2004-2005 budget. The PowerPoint is on file in the City Recorder's office.
- c. Public Testimony
There was no public testimony.
- d. Staff Recommendation
Mr. Prosser recommended approval of the resolution.
- e. Council Discussion
There was no Council discussion.
- f. Close Public Hearing
Mayor Dirksen closed the public hearing.
- g. Council Consideration
Motion by Councilor Moore, seconded by Councilor Wilson, to adopt
Resolution No. 04 – 36

**Resolution No. 04 – 36, A RESOLUTION OF THE CITY OF TIGARD
ADOPTING THE BUDGET, MAKING APPROPRIATIONS, DECLARING
THE VALOREM TAX LEVY, AND CLASSIFYING THE LEVY AS
PROVIDED BY ORS 310.060(2) FOR FISCAL YEAR 2004-05**

The resolution was approved by unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

9. **CONSIDER A RESOLUTION ADOPTING THE MASTER FEES AND CHARGES SCHEDULE, REPEALING RESOLUTION NO. 03-25 AND ALL SUBSEQUENT AMENDMENTS**
- a. **Staff Report**
Management Analyst Wareing described updates and revisions to the city's Master Fees and Charges Schedule. She noted several fees are either set by other agencies or are adjusted annually through existing formulas. An overview of the changes to the schedule is provided on the Agenda Item Summary.
- b. **Council Discussion**
There was a brief discussion on how fees and charges are updated. It was noted there is no standard, across-the-board increase.
- c. **Council Consideration**
Motion by Councilor Woodruff, seconded by Councilor Sherwood, to adopt Resolution No. 04 – 37

**Resolution No. 04 – 37, A RESOLUTION ADOPTING THE CITYWIDE
MASTER FEES AND CHARGES SCHEDULE WHICH REPLACES
RESOLUTION NO. 03-25 AND ALL SUBSEQUENT AMENDMENTS TO
DATE**

The resolution was approved by unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

10. COUNCIL LIAISON REPORTS

There were no liaison reports.

Note: Non-Agenda Items were considered after Item No. 13.

11. NON AGENDA ITEMS

12. EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 9:23 p.m. to discuss exempt public records under ORS 192.660(2)(f).

Business meeting reconvened at 10:26 p.m.

13. CONSIDER COUNCIL ACTION RELATED TO THE PORTLAND WATER CONTRACT

a. Staff Report

Acting Public Works Director Koellermeier stated the issue before the Council was to determine how the city wished to proceed on a contract to purchase wholesale water from the City of Portland. Mr. Koellermeier informed the Council the current contract expires in 2007. However, should any changes be sought in the existing contract, notification must be given by June 30, 2004. Mr. Koellermeier inquired, based upon discussion in executive session, if the Council wished to direct staff to ask Portland if it would extend the current contract.

b. Council Discussion

The length of the extension was discussed. Mr. Koellermeier recommended requesting a two year extension to the existing contract.

c. Council Consideration

Councilor Sherwood moved the City of Tigard make a formal request to the City of Portland for an extension of Tigard's contract for an additional two years and the City of Portland provide the Council with their response to this request before the June 22, 2004.

A discussion on whether Tigard might request the three-year requirement be removed from the contract ensued. City Attorney Firestone commented Portland would likely not agree to such a request. The Council decided not to make such a request.

Councilor Wilson seconded Councilor Sherwood's earlier motion.

Councilor Sherwood's motion was approved by unanimous vote:

Mayor Dirksen	-	Yes
Councilor Moore	-	Yes
Councilor Sherwood	-	Yes
Councilor Wilson	-	Yes
Councilor Woodruff	-	Yes

Note: Non-Agenda Items were heard at this time.

11. NON AGENDA ITEMS

Councilor Wilson informed the other Councilors about a recent Metro decision. Due to an inadequate supply of industrial land, Metro had been considering expanding the boundary. The Metro Policy Advisory Committee (MPAC), to which Councilor Wilson is an alternate, set criteria and studied various areas regarding the industrial land issue.


Councilor Wilson reported MPAC members reached a consensus to withdraw land in Tualatin and Wilsonville and add land in Cornelius and Hillsboro. This recommendation was forwarded to the Metro Council. However, the Metro Council did not acknowledge the MPAC recommendation and instead voted in accordance with the staff recommendation. As a result, MPAC condemned the Metro decision. An impromptu meeting of Mayors, mostly MPAC members, was held and Metro's action along with MPAC's role was discussed. The cities involved in MPAC are evaluating whether the current structure is satisfactory. Councilor Wilson stated there is widespread dissatisfaction within MPAC. With regard to the Metro Council's

disregard of MPAC's recommendation, he stated there will likely be further repercussions in the form of appeals, possible legal action and possible discussions about changes at Metro.

Councilor Wilson noted that although changes to industrial lands could preempt the I-5/99W connector, in general, Tigard is not impacted by changes in industrial lands. However, he expressed concern that local government is not being heard. Councilor Wilson noted the time and effort expended in the MPAC process had not been productive.

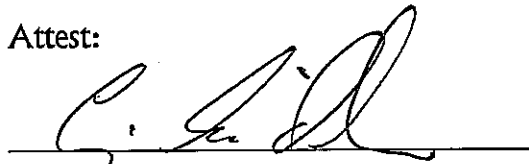
Alice Ellis-Gaut, 10947 SW Chateau Ln., Tigard, Oregon, indicated she had read press coverage on the issue and inquired about the Metro Council's vote. Councilor Wilson was unsure of the actual vote. He added Metro's Charter makes the agency somewhat insulated from public pressure which enables them to discount public opinion.

The meeting adjourned at 10:44 p.m.



Greer A. Gaston, Deputy City Recorder

Attest:



Mayor, City of Tigard

Date: July 13, 2004

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